APPENDIX

Rules of the Supreme Court of the State of Georgia, adopted July 8, 1965.

XIV. REHEARING.

RULE 43. *Motion for rehearing, when and how made.* No motion for a rehearing will be considered by this Court unless the same is filed in the office of the clerk thereof during the term at which the judgment sought to be reviewed was rendered, and before the remittitur has been forwarded to the clerk of the trial court. An original and six copies will be sufficient.

(a) The court may by special order in any case direct that the remittitur be transmitted to the clerk of the trial court immediately after the rendition of the decision and judgment, or at any other time, without awaiting expiration of the usual period of ten days, and may otherwise by special order limit the time within which a motion for rehearing may be filed to any period less than ten days, counsel in such cases to be notified. Unless an extension of time is requested and granted, a motion for rehearing must in any event be filed within ten days from the rendition of the decision and judgment, regardless of whether the remittitur has been transmitted to the lower court.

(b) No motion for rehearing by the same party after a first motion has been denied will be filed except by special order of the court, although the clerk may receive any such later motion and deliver the same to the court for action.

(c) A hearing will be granted, on motion of the losing party, only when it appears that the court has over-

looked a material fact in the record, a statute, or a decision which is controlling as authority and which would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority. No motion for a rehearing will be entertained which does not expressly point out what material fact in the record, or controlling statute or decision, has been overlooked by the court, or what provision of law or controlling authority has been erroneously construed or misapplied.

(d) There shall be attached to the motion a certificate of counsel that upon careful examination of the opinion of the court he believes that such a fact, statute, or decision, has been overlooked, or that such provision of law or controlling authority has been erroneously construed or misapplied. The motion, when filed, shall show that a copy thereof has been served on opposing counsel, who may thereupon file a brief on the questions raised.

(e) Upon the consideration of a motion for a rehearing, this court may, in its discretion and according to its power as heretofore exercised, revise the opinion or change the judgment, without granting a rehearing, in which event the court shall so advise the clerk as to the said revision or changes who shall then promptly notify counsel thereof.

(f) After motions for rehearing have been disposed of, or in the absence of such motion, the court or the Justices may revise opinions in accordance with Code § 6-1606.

(g) In so far as practicable, the provisions of this rule shall apply to cases certified to this court by the Court of Appeals, and to applications for certiorari.

CERTIFICATE OF SERVICE

I, MATHEW ROBINS, one of the Attorneys for the Respondent herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 23 day of October, 1968, I served a copy of the foregoing Brief for the Respondent in Opposition on the Petitioner by mailing a copy in a duly addressed envelope with postage prepaid to his counsel of Record, WESLEY R. ASINOF, 3424 First National Bank Building, Atlanta, Georgia 30303.

MATHEW ROBINS
Of Counsel for Respondent